

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

THE MERCY HOSPITAL, INC., )  
Plaintiff )  
vs. )  
MASSACHUSETTS NURSES )  
ASSOCIATION, )  
Defendant )

Civil Action No. 04-30014-MAP

FILED  
IN CLERK'S OFFICE  
2005 MAR -4 P 3:31  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S  
MOTION TO STRIKE PLAINTIFF'S OBJECTION**


Now comes the plaintiff, Mercy Hospital, and opposes the defendant's Motion to Strike for the reasons stated below:

1. The objection filed by the plaintiff is not untimely. The filing on February 2, 2005, was in accordance with the court's own order. On the electronic transmittal, the order stated that the date the objections were due was February 2, 2005 (Exh. 1). Counsel called court clerk Bethany Healy to double check that this was the correct date and received a voice mail in return that February 2, 2005, was the correct date and that the court was computing the time under *Fed. R. Civ. P. 6(a)* and the additional time under *Fed. R. Civ. P. 6(e)*. Adding three days, as per *Fed. R. Civ. P. 6(e)*, together with the excluded holidays and weekends, results in a date of February 2, 2005. Even if the court's interpretation had been incorrect, the court has the power to set the time for the response. See *Fed. R. Civ. P. 6(b)*.

2. There are no grounds to strike any portion of the plaintiff's submission. The "record" referred to in *Fed. R. Civ. P. 72(b)* is a reference to "all evidentiary proceedings before the magistrate judge." *Fed. R. Civ. P. 72(b)*. There was no evidentiary proceeding in this case and no other record was made. The ruling in question was essentially identical to a motion for summary judgment. Plaintiff only included in the record items placed before the Magistrate Judge. Their relevance is discussed in plaintiff's submission. It is certainly within the court's discretion to determine whether the exhibits are relevant and to rule accordingly.

THE PLAINTIFF, THE MERCY HOSPITAL, INC.  
BY ITS ATTORNEY

Dated: March 4, 2005

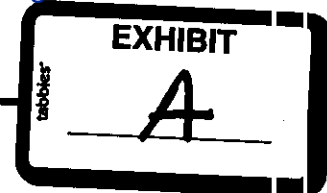
  
Maurice M. Cahillane, Esq.  
EGAN, FLANAGAN AND COHEN, P.C.  
67 Market Street - Post Office Box 9035  
Springfield, MA 01102  
(413) 737-0260; Fax: (413) 737-0121  
BBO# 069660

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served this 4thnd day of March, 2005, on all parties, by Fax and First Class Mail, to: Mark A. Hickernell, Esq., McDonald & Associates, 153 Cordaville Road, Suite 210, Southborough, MA 01772

  
Maurice M. Cahillane

Patricia A. Reiss



From: ECFnotice@mad.uscourts.gov  
 ent: Thursday, January 13, 2005 10:36 AM  
 ro: CourtCopy@mad.uscourts.gov  
 Subject: Activity in Case 3:04-cv-30014-MAP The Mercy Hospital, Inc. v. Massachusetts Nurse Association "Report and Recommendations"

\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.  
 <!-- rcsid='\\$Header: /ecf/district/html/TextHead,v 3.1 2003-04-25 07:56:43-04 loy Exp \S' --> United States District Court District of Massachusetts

#### Notice of Electronic Filing

The following transaction was entered on 1/13/2005 at 10:36 AM EST and filed on 1/13/2005

#ident 'rcsid='\\$Header: /ecf/district/server/TextBody,v 3.1 2003-04-25 07:52:35-04 loy Exp \S' Case Name: The Mercy Hospital, Inc. v. Massachusetts Nurse Association Case Number: 3:04-cv-30014 https://ecf.mad.uscourts.gov/cgi-bin/DktRpt.pl?90324

Document Number: 23

Copy the URL address from the line below into the location bar of your Web browser to view the document: https://ecf.mad.uscourts.gov/cgi-bin/show\_case\_doc?23,90324,,30055556,

#### Docket Text:

Judge Kenneth P. Neiman : Electronic ORDER entered. REPORT AND RECOMMENDATIONS re [11] MOTION to Vacate filed by The Mercy Hospital, Inc.,, [15] MOTION to confirm arbitration award filed by Massachusetts Nurse Association, Recommendation: that the plaintiff's motion to vacate be DENIED and that the defendant's motion to confirm be ALLOWED.Objections to R&R due by 2/2/2005(Stuckenbruck, John)

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: yes

Electronic document Stamp:

[STAMP dcecfStamp ID=1029851931 [Date=1/13/2005] [FileNumber=814950-0]  
 12a3a2a7c85aab03325e13f225d1dc068bac9e21bb72e38adb03213ce34c145bcfe672fdd92e12df1f1447db9b  
 845ded56fa1895c0cb6bc7b932abbbfd8e98006]]

<!-- rcsid='\\$Header: /ecf/district/server/TextAtyList,v 3.2 2003-06-02 17:37:56-04 bibeau  
 Exp \S' --> 3:04-cv-30014 Notice will be electronically mailed to:  
 Maurice M. Cahillane  
 mmcahillane@eganflanagan.com , Jr

Mark A. Hickernell  
 mhickernell@masslaborlawyers.com

Alan J. McDonald

amcdonald@masslaborlawyers.com

3:04-cv-30014 Notice will not be electronically mailed to: